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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,450	07/21/2003	Hideki Saga	29284/592	5239

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EXAMINER

CHU, KIM KWOK

ART UNIT	PAPER NUMBER
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2627

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/622,450	SAGA, HIDEKI	
	Examiner	Art Unit	
	Kim-Kwok CHU	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/21/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/583,480.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Remarks

1. Applicant's RCE with Amendment and Remarks filed on July 12, 2006 has been fully considered.

Applicant states that the prior art of Osakabe (U.S. Patent 5,872,763) discloses that a desirable recording power is controlled while specific parameters such as an asymmetry value, modulation factor or error rate of the reproduced signal are referred for a purpose of optimizing the recording power in the recording/erasing (page 9 of the Remarks, lines 10-13). According, a newly found prior art of Toda et al. (U.S. Patent 5,642,343) is cited to reject the present Claims.

Furthermore, Applicant states that his test information is reproduced without any change of the servo condition (page 8, last fifth and fourth lines). Accordingly, a servo operation such as focusing or tracking is determined by the result of the read test mark. In other words, during the reading of the test mark, there is no change of servo condition because the read result is not known yet.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

3. Claims 1 and 5-16 are rejected under 35 U.S.C. § 102(b) as being anticipated by Toda et al. (U.S. Patent 5,642,343).

Toda teaches an information recording apparatus for recording information on a recording medium having all the elements and means as recited in claims 1 and 5-11. For example, Toda teaches the following:

(a) With respect to Claim 1, the information recording apparatus for recording information on a recording medium 101 by forming marks different in a physical property from non-recorded portions (test areas) with energy injected into the recording medium 101 (Figs. 1 and 5; different size of marks are formed in a test track; column 6, lines 37-40); energy generation means 8 (laser in optical head 2) which generates recording energy (Fig. 1); position control means (in optical pickup 2) which controls an injection position of the recording energy output from

the energy generation means 8 for the recording medium 101 (Figs. 1 and 27; focusing and tracking controls are inherent features in the pickup 2); drive means 7 which drives the energy generation means 8 (Fig. 1); a switching means (in encoder 4) which switches information based on user's data or test information to be supplied to the drive means (Fig. 1; input of the encoder 4 is a switching means so that either input data or trial writing data is selected to encoded); a reading means 10 which reads marks recorded on the recording medium 101 (Fig. 1; signals are read by the reproducing amplifier); an evaluation means 16 which evaluates a reproduced signal obtained from the reading means 10 (Fig. 1); a recording condition control means 6, 11, 13 which controls a recording condition of an evaluation result obtained from the evaluation means 16 (Figs. 1 and 2; steps 2023, 2026 and 2027); in a case of reproducing the marks having the test information (Fig. 2, step 2026), a control operation of the position control means is unchanged in a first reproduction in comparison with a time when the test information is recorded (Figs. 1 and 2; test recording signals are recorded and then reproduced without involving any focusing/tracking servo adjustments); a control operation (focusing/tracking) of the position control means is changed in a second

reproduction in comparison with a time when the test information is recorded (Figs. 1 and 2; test trail writing is performed on another test track); the recording condition is controlled in accordance with values of a signal amplitude (light intensity) in the first reproduction and a signal amplitude in the second reproduction (Figs. 2 and 5; light intensities to form marks are determined after repeated test recording).

(b) With respect to claim 5, the changed content of the control operation (focusing/tracking) for the position control means is either a stop or a start of a tracking offset amount, of a tracking polarity, or of a tracking operation, carried out by the position control means (Fig. 1; power intensity setting of different test recording signals are finished in different tracking stop/start operations such as read/write operations).

(c) With respect to Claims 6, the changed content of the control operation for the position control means is a target track (address) indicated by the position control means (Fig. 1; inherent feature where each signal written on the medium has a recording address).

(d) With respect to Claim 7, in a case where the test information is supplied to the drive means 7 and recorded on the recording medium 101, an in-phase mark (same test

pattern) arrangement is recorded on adjacent tracks (Figs. 1 and 2; same test pattern can be recorded on another test track/zone).

(e) With respect to Claim 8, a vibration means (servo focusing) which vibrates (up and down motions) the reading means in a direction perpendicular to a main scanning direction on the recording medium (Fig. 1; the inherent servo focusing means which moves the objective lens in an upward and downward directions).

(f) With respect to Claim 9, in a case where the test information is supplied to the drive means 7 and recorded on the recording medium 101, the test information inconsistent with a conversion rule (demodulation) of a conversion means is used (Fig. 1; inherent feature where test information is not user data which requires error correction and modulation).

(g) With respect to Claim 10, in a case where the test information is supplied to the drive means 7 and recorded on the recording medium 101, pieces of the test information, each of which is different, are recorded on a plurality of tracks/locations (Fig. 1; test trial writing is performed on a plurality of test track/zone).

(h) With respect to Claim 11, the test information containing a longer run-length than a run-length rule of

the conversion means is used as the test information (Fig. 1; 2-7 RLLC is used; column 28, lines 35-63).

4. Method claims 12 and 13 are drawn to the method of using the corresponding apparatus claimed in claims 1 and 5. Therefore method claims 12 and 13 correspond to apparatus claims 1 and 5 and are rejected for the same reasons of anticipation as used above.

5. Claim 14 has limitations similar to those treated in the above rejection as in Claims 1 and 5, and are met by the reference as discussed above.

6. Claim 15 has limitations similar to those treated in the above rejection as in Claims 1 and 5, and are met by the reference as discussed above.

7. Claim 16 has limitations similar to those treated in the above rejection as in Claims 1 and 6, and are met by the reference as discussed above.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hurst, Jr. (5,631,887) is pertinent because Hurst, Jr. teaches an information apparatus having a test pattern using pulse width modulation.

9. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kim CHU whose telephone number is (571) 272-7585 between 9:30 am to 6:00 pm, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch, can be reached on (57) 272-7589.

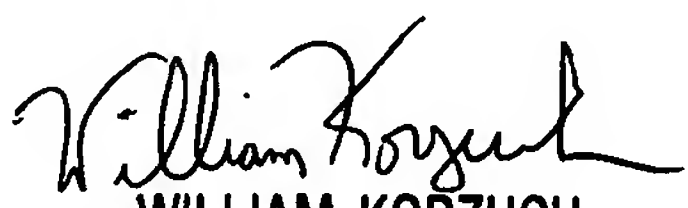
The fax number for the organization where this application or proceeding is assigned is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll free).

Kim-Kwok CHU

Examiner AU2627
September 13, 2006

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